

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF:

LILIAN T. BARANDIARAN HUAMAN

Debtor

CASE NO. 10-09133 BKT

CHAPTER 13

MOTION REQUESTING DISMISSAL

TO THE HONORABLE COURT:

COMES NOW creditor **BANCO BILBAO VIZCAYA ARGENTARIA (BBVA)**, represented by the undersigned attorneys and very respectfully states and prays:

1. On September 30th, 2010, debtor filed the instant petition for relief.

2. Pursuant to the terms of the plan debtor shall surrender to BBVA its collateral.

3. Appearing creditor respectfully requests from this Honorable Court to enter an Order dismissing the instant case based on the following grounds:

4. BBVA is holder in due course of a duly recorded money purchase security agreement with security interest (contract number 9616738750) at the Motor Vehicles and Trailers Registry of the Department of Transportation and Public Works of the Commonwealth of Puerto Rico, which encumbers a 2010, Toyota Corolla automobile, engine number 2T1BU4EE3AC275118, registered in the name of LILIAN T. BARANDIARAN. (EXHIBIT A")

a. As of November 3rd, 2010, debtor has failed to surrender to BBVA its collateral.

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b. Section 1307(c)(1) and (4) of the Bankruptcy Code, [11 USC 1307(1) and (4)], states as follows:

"(c) Except as provided in subsection (e) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including--

(1) unreasonable delay by the debtors that is prejudicial to creditors;

(2)...

(3)...

(4) failure to commence making timely payments under section 1326 of this title;"

c. Section 1326 (a)(1), of the Bankruptcy Code, 11 USC 1326 (a)(1), requires debtor to commence making the payments under the plan within 30 days after the same is filed.

d. Debtor has failed to comply with the terms of the plan. It is his duty to surrender to BBVA its collateral. In doing so he has defaulted the terms of the same.

5. Debtor is not a member of the U.S. Armed Forces, the Coast Guard, the Public Health Services or the National Oceanic and Atmospheric Administration, as evidenced by the Certificate issued by the U.S. Department of Defense, copy which is attached only to the original of this motion and movant's copy.

6. Pursuant to Order No. 97-01, unless debtor file a response to the instant motion and to immediately surrender to BBVA its collateral within thirty (30) days from the date of this notice, the case may be dismissed without a hearing.

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WHEREFORE, it is very respectfully requested from this Honorable Court to grant this motion and to enter an Order dismissing the instant case.

I HEREBY CERTIFY: On this same date I electronically filed the foregoing document with the clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Attorney for Debtor(s), **MARILYN VALDES ORTEGA, ESQ.**, and to Chapter 13 Trustee, **ALEJANDRO OLIVERAS RIVERA** and by ordinary mail to debtor(s) and to all creditors and parties in interest appearing in the attached Master Address List.

RESPECTFULLY SUBMITTED,

In San Juan, Puerto Rico, this 3 day of November, 2010.

s/ Angel M. Vázquez Bauzá
ANGEL M VÁZQUEZ BAUZÁ, ESQ.
Bar Number: 203308
ENR & Associates
PO Box 191017
San Juan, PR 00919-1017
Tel. (787) 754-1313 Fax. 754-1354
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sfg

ESTADO LIBRE ASOCIADO DE PUERTO RICO

DEPARTAMENTO DE TRANSPORTACION Y OBRAS PUBLICAS

DIRECTORIA DE SERVICIOS AL CONDUCTOR

CERTIFICADO DE TITULO

24mar2010 09:20:03

0387-0841-4114-0000000000

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|--|-------------------------------|-------------------------------|-----------------------------|--------------|----------------|-------------------------|
| NUMERO DE TITULO A 4306044 | FECHA EXPEDICION 24mar2010 | NUMERO DE REGISTRO 7252954 | FECHA REGISTRO 19dic2009 | | | |
| NUMERO DE SERIE (VIN) 2T1BU4EE3AC275118 | MARCA toyota corolla | MODELO 2010 | NUM. CILINDROS 04 | | | |
| CAP CARGA 0# | PESO 0# | NUEVO USADO Nuevo | TITULO ANTERIOR CertOrig | ESTADO JA | ODOMETRO 10 | COLOR rojo obscur |

NOMBRE Y DIRECCION DEL DUEÑO REGISTRAL:

Nombre: BARANDIARAN, LILIAN T.

Resid: PASEO DEL BOSQUE
2508
SAN JUAN PR 00926ESTE ES SU
TITULO DE PROPIEDAD.
CONSERVELO EN
SITIO SEGURO.

Postal: La Misma

GRAVAMENES

PRIMER GRAVAMEN (VENTA CONDICIONAL)

BBVA

FECHA
DIA-MES-AÑO

19dic2009

SEGUNDO GRAVAMEN (OTROS)

CANCELACION GRAVAMEN

EL (LOS) ABAJO FIRMANTE (S) TENEDOR (ES) DEL GRAVAMEN SOBRE EL VEHICULO DE MOTOR DESCRITO
ARRIBA CERTIFICAMOS QUE EL MISMO HA SIDO PAGADO (SI MAS DE UN GRAVAMEN DEBERAN APARECER DOS
(2) FIRMAS)PRIMER
GRAVAMEN

FECHA

FIRMA AUTORIZADA

SEGUNDO
GRAVAMEN

FECHA

FIRMA AUTORIZADA

NUMERO CONTROL

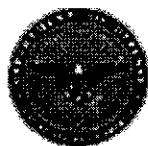
A- 9211749

SECRETARIO DTOP
O REPRESENTANTE AUTORIZADO

NO ES VALIDO SI ALTERADO

Department of Defense Manpower Data Center

Nov-03-2010 08:10:44



Military Status Report
Pursuant to the Service Members Civil Relief Act

| ◀ Last Name | First/Middle | Begin Date | Active Duty Status | Active Duty End Date | Service Agency |
|-----------------------|--------------|--|--------------------|----------------------|----------------|
| BARANDIARAN HUAMAN | LILIAN T | Based on the information you have furnished, the DMDC does not possess any information indicating the individual status. | | | |

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:A20LTMH20F

Label Matrix for local noticing
0104-2
Case 10-09033-MCF7
District of Puerto Rico
Ponce
Wed Nov 3 11:15:12 AST 2010

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